

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1781.01
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	July 16, 2001
DATE OF REPORT:	August 15, 2001
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 4, 2001

COMPLAINT ISSUES:

Whether the School City of Mishawaka and the Mishawaka-Penn-Harris-Madison Joint Services violated:

-51 1 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to provide 60 minutes daily of direct services in a general education setting for recreation and leisure skill development; and
- b. failing to provide appropriately trained adult assistance during recess on May 30, 2001.

FINDINGS OF FACT:

1. The Student is an eight-year-old, third-grade student who has been determined eligible for special education and related services as a student with multiple disabilities and a communication disorder.
2. The Student's IEP dated April 27, 2000, for the 2000-2001 school year, included several goals to develop recreation and leisure skills. The IEP states that the Student was to receive 60 minutes of direct services daily in the area of recreation and leisure skills. The Complainant identified several activities to be used as part of developing the Student's recreation and leisure skills, including "playing computer games, playground play (weather permitting), looking at books/magazines, and listening to radio/stereo." The IEP does not specify that these particular services are to be provided in the morning.
3. The complainant asserts that the Student did not receive the full 60 minutes of direct services in the area of recreation and leisure skills on May 30, 2001. Although there is no documentation of the amount of service provided on May 30, 2001, the Student was present at school only until noon that day. After falling on the playground during noon recess, the parents took the Student for medical attention, and he did not return to school until the next day. There was no opportunity to provide services to the Student during the afternoon on May 30, 2001.
4. The complainant asserts that the Student's IEP required the Student to have trained adult assistance during recess, and that on May 30, 2001, the Student was injured as a result of the lack of a trained adult assistant. However, the April 27, 2000, IEP does not indicate that the Student is to have a one-to-one adult assistant during recess times. The IEP does include an objective that indicates the Student is to have "stand by" adult supervision when climbing on the playground platform. One of the program assistants who has been trained to work with the Student was present with him at noon recess on May 30, 2001.

CONCLUSIONS:

- 1a. Finding of Fact #2 indicates the Student was to receive 60 minutes of direct services in the area of recreation and leisure skills sometime during each instructional day. Finding of Fact #3 demonstrates that the Student may have missed some of this service time on May 30, 2001, but the Student's absence from school during the afternoon on May 30, 2001, precluded the School from providing the full amount of the service. Therefore, no violation of 511 IAC 7-27-7(a) is found with regard to the provision of service in the area recreation and leisure skill development.
- 1b. Finding of Fact #4 indicates that the Student's IEP did not require the school to provide one-to-one trained adult assistant to the Student during recess, although one of the trained program assistants was present with the Student during noon recess on May 30, 2001. Therefore, no violation of 511 IAC 7-27-7(a) occurred regarding this issue.

The Department of Education, Division of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.

DATE REPORT COMPLETED: August 15, 2001